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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,038	09/29/2000	Bernhard Dehmer	4481-028	3016

7590 05/14/2002

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EXAMINER

FOX, JOHN C

ART UNIT	PAPER NUMBER
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3753

DATE MAILED: 05/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER
	12

DATE MAILED:

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- a) ☒ is extended to run _____ or continues to run 3 MOS from the date of the final rejection
- b) ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed 4/28/02 has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- a. ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
 - b. ☐ They raise new issues that would require further consideration and/or search. (See Note).
 - c. ☐ They raise the issue of new matter. (See Note).
 - d. ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
 - e. ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: _____

2. ☐ Newly proposed or amended claims _____ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☐ Upon the filing an appeal, the proposed amendment ☐ will be entered ☐ will not be entered and the status of the claims will be as follows:

Claims allowed: _____

Claims objected to: _____

Claims rejected: _____

However;

☐ Applicant's response has overcome the following rejection(s): _____

4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because see attached

5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☐ Other

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This action is responsive to the communication filed April 28, 2002.

As to the drawings filed 12/13/01, applicant's attention is directed to the cover sheet, PTO-326, of Paper No. 9 mailed January 28, 2002, at the section labelled "Application Papers", the second item thereunder. An X is marked in the box adjacent to the line that reads: The proposed drawing correction, filed on 12/13/01, is approved. As this was pointed out to applicant's representative at the interview of March 14, 2002, the Examiner hopes that applicant finally understands that the drawing amendment has been approved.

As to the recitation of "tapered", the American Heritage Dictionary defines gradual as "1. Occurring in small stages or degrees or by even, continuous change. 2. Moderate and regular." The spherical element shown in the drawings, and all spheres, have diameters that change in an exponential manner, which is neither by small degrees nor in an even continuous manner. The objection based on this language will be maintained.

Regarding the §112 rejections, as noted on the interview summary record the rejection regarding lines 3-4 of claim 17 is withdrawn.

As to the recitation "the passage interior surface", passages are known which are annular or which pass through an atmosphere or a space, and in which it might be unclear what

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inner or outer surface is or even if there is an inner surface. Considering also that the claim does not even recite that the passage is in a body, the claim recitation is quite different than "an outer surface of a sphere" and the Examiner remains of the opinion that the claim is indefinite.

As to the various recitations on lines 15-20, "the peripheral surface" in line 15 does not necessarily refer back to "a tapered peripheral surface". (Note that claim 22, dependent on claim 17, adds "the sealing element peripheral surface".) Thus "the tapered sealing surface" is indefinite, as is "the sealing element sealing surface". In view of such a compendium of confusing alternative recitations, the Examiner also remains of the opinion that the rejection is proper.

The rejection regarding lines 10-13 of claim 17 is withdrawn.

The above remarks apply to claim 29 as well.

As to claim 16, the Examiner has explained the grounds of the rejection as well as he is able to, but is not a grammarian. The claim language of lines 8-12 of claim 16 makes little sense and it is hard to see how it can be argued that the metes and bounds of the invention are set forth as required by §112. The same applies to claim 15.


Any inquiry concerning this communication should be directed to Examiner Fox at (703) 308-2595 or John.Fox@uspto.gov. Any

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inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861. The fax number for Art Unit 3753 is (703) 308-7765. The Supervisory Primary Examiner for Art Unit 3753 is Michael Buiz who can be reached at (703) 308-2580 or at Michael.Buiz@uspto.gov.


JOHN FOX
PRIMARY EXAMINER
ART UNIT 3753

jcf
May 13, 2002